

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 19029
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff decision adjusting property tax reduction benefits for 2005. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioners) submitted a property tax reduction benefit application with Idaho County on or about March 1, 2005. The application was mailed to [Redacted] County from [Redacted]. Both the envelope and the application showed the petitioners' mailing address as [Redacted] [Redacted].

The staff reviewed the application pursuant to Idaho Code § 63-707(5). Copies of documents submitted with the application cast doubt that the petitioners occupied the property located in [Redacted] County as their primary residence. Attached with the application was a copy of a change of address request signed by [Redacted] showing an effective date of March 1, 2004, a copy of a picture of the property showing a "for sale" sign in the yard with a note below indicating the petitioners had not been living in the dwelling, and a copy of a letter from [Redacted] County to the petitioners. The letter advised the petitioners their homeowner's exemption for tax year 2005 was being disallowed.

Based on the information from [Redacted] County and the records of the Tax Commission, the staff sent the petitioners a notice of the intent to deny their property tax reduction benefit for 2005. The petitioners objected to the staff's intended action, and the file was transferred to the

Legal/Tax Policy Division for administrative review.

On October 14, 2005, Mr. [Redacted] telephoned the Tax Appeals Specialist. He said he was very angry with the determination that his property tax reduction benefit should be denied because he considers them to be snow birds. He said they live in Idaho six months and in [Redacted] the other six months of the year. However, when asked about the determination that he and Mrs. [Redacted] had not been living in the house for calendar year 2004, which lead to the cancellation of the tax year 2005 homeowners exemption, he did not have an answer.

Idaho Code § 63-701(8)(a) puts on the petitioners the burden of establishing their home in Idaho as their primary dwelling place on January 1, 2005, or before April 15, 2005, and at least six months of 2004 or by clear and convincing evidence. In addition, Idaho Property Tax Administrative Rule 600 states: “The burden of claiming exemption and the burden of proof of entitlement is on the person claiming the exemption for the property.”

The property tax reduction benefit provided for in Idaho Code § 63-701, and the homeowners exemption provided for in Idaho Code § 63-602G have the same ownership and residency requirements. The petitioners have presented nothing that would establish the homestead in [Redacted] County, Idaho as their primary residence.

Idaho Code § 63-602G(4), providing for the homeowners exemption, states: “The exemption allowed by this section must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.” No evidence has been presented that the petitioners appealed [Redacted] County’s decision to terminate their homeowners exemption. The petitioners’ homeowners exemption for the 2005 assessment year was disallowed because the petitioners did not establish the dwelling as their primary dwelling place.

Because that exemption must be taken before the property tax reduction benefit can be applied, the petitioners' application to receive the 2005 property tax reduction benefit cannot be allowed.

The Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners.

WHEREFORE, the decision of the State Tax Commission staff is hereby APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioners' right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2005.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have on this _____ day of _____, 2005, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]

Receipt No.